

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Samuel G. Zean,

Court File No: \_\_\_\_\_

Plaintiff,

v.

**NOTICE OF REMOVAL**

Premiere Global Services, Inc.,

Defendant.

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**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. § 1441 and § 1446, Defendant Premiere Global Services, Inc. (“Premiere Global Services”) removes to this Court the state-court action described in paragraph 1 below.

**THE REMOVED CASE**

1. The removed case is a civil action in which the Complaint and Summons were served on Premiere Global Services on July 28, 2009. As commenced, this matter is venued in the District Court of Dakota County, State of Minnesota, and styled *Samuel G. Zean, Plaintiff v. Premiere Global Services, Inc., Defendant*, Court File No. 19HA-CV-09-5038.

**PAPERS FROM REMOVED ACTION**

2. As required by 28 U.S.C. § 1446(a), attached as Exhibit A are true and correct copies of all process, pleadings, and orders served upon Premiere Global Services in the removed case.

### **THE REMOVAL IS TIMELY**

3. 28 U.S.C. § 1446(b) requires that notice of removal of a civil action or proceeding be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which the action or proceeding is based.

4. Attached as Exhibit B is a true and correct copy of correspondence between Plaintiff's and Defendant's attorneys regarding the date of service of the Complaint and Summons in the above-captioned matter. Here, suit against Premiere Global Services was commenced on or about July 28, 2009, when Premiere Global Services was served with the Complaint and Summons. *See* Minn. R. Civ. P. 3.01 (noting that "[a] civil action is commenced against each defendant: (a) when the summons is served upon that defendant[.]"). This notice of removal is filed within 30 days of that service as required by Section 1446(b).

### **FEDERAL COURT JURISDICTION IS PROPER**

5. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction of all civil actions "arising under the Constitution, laws, or treaties of the United States." Here, this requirement is met.

6. Plaintiff's Count II seeks damages arising from alleged violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. (*See* Pl.'s Compl. at ¶¶ 20-26.) Because 47 U.S.C. § 227 is a federal law of the United States, this Court has original jurisdiction under 28 U.S.C. § 1331.

7. Pursuant to 28 U.S.C. § 1367, in any civil action of which this Court has original jurisdiction, this Court has supplemental jurisdiction over all other claims that are so related to the claim in the action within original jurisdiction that they form part of the same case or controversy. Here, this requirement is met with respect to Plaintiff's Count I.

8. Plaintiff's Count I alleges Invasion Of Privacy By Intrusion Upon Seclusion, and is based upon precisely the same facts giving rise to Plaintiff's Count I. This Court has jurisdiction over Plaintiff's Count I based on 28 U.S.C. § 1367.

9. If any question arises as to the propriety of the removal of this action, Premiere Global Services requests the opportunity to brief any disputed issues and to present oral argument in support of its position that this case is properly removable.

10. In addition, nothing in this Notice of Removal shall be interpreted as a relinquishment of any of Premiere Global Services' rights to assert any defenses including, without limitation, the defense of 1) lack of jurisdiction over the person, 2) improper venue, 3) insufficiency of process, 4) insufficiency of service of process, 5) failure to state a claim, or 6) any other procedural or substantive defense available under state or federal law.

### **FILING OF REMOVAL PAPERS**

11. Pursuant to 28 U.S.C. § 1446(d), Premiere Global Services shall serve written notice of the removal of this action on Plaintiff's counsel, and a Notification of Filing Notice of Removal will be filed with the District Court for the County of Dakota, State of Minnesota. A true and correct copy of this Notification is attached as Exhibit C.

**WHEREFORE**, Premiere Global Services, Inc. hereby removes the above-captioned action from the District Court for the County of Dakota, State of Minnesota, and requests that further proceedings be conducted in this Court as provided by law.

Dated: August 27, 2009

**MASLON EDELMAN BORMAN &  
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